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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,641	12/10/2001	Brent S. Sparre	M-12228 US	1410

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CAMPBELL STEPHENSON ASCOLESE, LLP  
4807 SPICEWOOD SPRINGS RD.  
BLDG. 4, SUITE 201  
AUSTIN, TX 78759

EXAMINER

LEE, KYUNG S

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No .	Applicant(s)
	10/014,641	SPARRE, BRENT S.
	Examiner Richard K. Lee	Art Unit 2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 05 July 2002.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 10 December 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 6 recite the “fastener being capable of being tightened.” Claims 3, 8 and 14 recite, “capable of being operably coupled” in lines 16 and 18, and lines 17 and 19 for claim 14. It has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires that ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 6 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Meek (4,469,122).

Meek teaches a gas fitting interlock apparatus comprising:  
a pedestal portion 20 (see figs. 1 and 2);  
a fitting support portion 12 on the pedestal 20;

an interlocking nut clamp 60 fastened to the support 12; and  
a fastener 100 for fastening the clamp 60 to the support 12.

Meek inherently discloses the claimed “predetermined tightness...” since the fastener 100 having sufficient tightness to fastening the clamp to the support. The means for preventing gas flow is 70 (fig. 2).

5. Claims 1-2, 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schumacher et al. (4,140,436).

Schumacher et al. teaches a gas fitting interlock apparatus comprising:

a pedestal portion 101;  
a fitting support portion 103 (comprising of 103 and 167);  
an interlock nut clamp 107 fastened to the support; and  
a fastener 140 for fastening the clamp 107 to the support 103 (fastened to 167).

Regarding “a predetermined tightness..” Schumacher et al. teaches fastener 149 abutting the portion 111 (fig. 4). The predetermined tightness, therefore, inherently exist.

Regarding claim 2, Schumacher et al. teaches a momentary switch 169 disposed within the pedestal 101 (fig. 4). The switch may be closed when the fastener is tightened and opened when the fastener is not tightened (not attached).

#### *Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher et al. Schumacher et al. teaches the claimed invention except for the method of using the claimed gas interlock apparatus. The steps/use claimed are deemed obvious in view of the functions of the structure in the combination discussed above.

*Allowable Subject Matter*

7. Claims 3-5, 8-10 and 14-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. . Claims 4 and 5 are depended on claim 3. Claims 9 and 10 depend on claim 8. Claims 15 and 16 depend on claim 14.
8. Claims 3, 8 and 14 recite “a second circuit . . . the equipment is prevented from operating when the momentary switch is open.” Such claimed circuit connections, in conjunction with the claimed limitations of claim 1, are neither disclosed nor suggest in the prior art of record.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mitsukuchi et al., Frost, Kock et al., Brovo, and Chang et al. disclose interlock switches.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard K. Lee whose telephone number is (703) 306-9060. The examiner can normally be reached on Mon. to Thur. 5:30AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (703) 308-7619. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Richard K. Lee  
Examiner  
Art Unit 2832

